

FILED

OCT 22 2007

OCT 15 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Joseph Mitchell  
Canadian Illegal Alien State Prison  
Prison # D-09632 (E-Wing-301L)  
Post Office Box 689  
Soledad, Ca. 93960

(Plaintiff In Pro Se)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

\* \* \*

CV-07-03843-SI

JOSEPH MITCHELL,

Plaintiff-Appellant,

v.

UNITED STATES ATTORNEY GENERAL,  
et al.,

Defendant-Appellee.

Docket No.:

) NOTICE OF APPEAL BEFORE  
) THE NINTH CIRCUIT COURT  
) OF APPEALS; FILED IN  
) ACCORDANCE WITH ALL U.S.  
) FEDERAL STATUTORY LAWS;  
) AND IN ACCORDANCE WITH  
) THE U.S. SUPREME COURT'S  
) RECENT DECISION IN  
) FERNANDEZ-VARGAS v.  
) GONZALES, U.S. ,  
) 126 S.Ct. 2422 (2006)

TO THE HONORABLE PRESIDING JUSTICES

IN AND FOR THE NINTH CIRCUIT COURT OF APPEALS

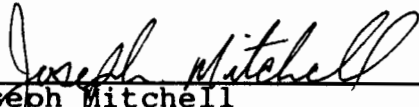
Appellant, Joseph Mitchell, hereby notifies this Honorable Ninth Circuit Court of Appeals Justices, that he is appealing the "Order of Dismissal" out of the Northern District Court Federal Court of California. Appellant asserts that the district court failed to follow several recent U.S. Supreme Court decisions as follows: FERNANDEZ-VARGAS v. GONZALES, \_\_\_ U.S. \_\_\_, \_\_\_, 126 S.Ct. 2422 (2006); I.N.S. v. St. Cyr, 533 U.S. 289, 316, 123 S.Ct. 2271 (2001); Hill v. McDonough, \_\_\_ U.S. \_\_\_, \_\_\_, 126 S.Ct. S.Ct. 2096, 2100, 165 L.Ed.2d 44 (2006); Wilkinson v. Dostson, 544 U.S. 74, 82,

1 125 S.Ct. 1242, 161 L.Ed.2d 253 (2005); Nelson v. Campell,  
2 541 U.S. 637, 643, 124 S.Ct. 2117, 158 L.Ed.2d 924 (2004);  
3 Muhammad v. Close, 540 U.S. 749, 753, 755, 124 S.Ct. 1303,  
4 158 L.Ed.2d 32 (2004).

5 All the above United States Supreme Court decisions are  
6 not being followed by the Northern District Federal Court  
7 and are directly related to the claims set forth in Appellant's  
8 §1983 Complaint against "BICE" agents for deliberately failing  
9 to hold any procedural deportation hearing, after 23 straight  
10 years of state incarceration. Wherefore, the granting of  
11 COA in this case is warranted.

12 Dated this 14th day of October, 2007.

13 Respectfully Submitted,

14  
15   
16 \_\_\_\_\_  
17 Joseph Mitchell  
18 Canadian Illegal Alien State Prisoner  
19 Without Bar Licensed Counsel  
20  
21  
22  
23  
24

**PROOF OF SERVICE BY MAIL**  
**BY PERSON IN STATE CUSTODY**  
(C.C.P. §§ 1013(A), 2015,5)

I, Joseph Mitchell, declare:  
I am over 18 years of age and I am party to this action. I am a  
resident of CORRECTIONAL TRAINING FACILITY prison, in the County  
of Monterrey, State of California. My prison address is:

Joseph Mitchell, CDCR #: D-09632  
CORRECTIONAL TRAINING FACILITY  
P.O. BOX 689, CELL #: E-301-L  
SOLEDAD, CA 93960-0689.

On Joseph Mitchell, I served the attached:

Application For COA

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**Notice of Appeal**

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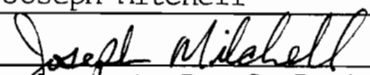
on the parties herein by placing true and correct copies  
thereof, enclosed in a sealed envelope (verified by prison  
staff), with postage thereon fully paid, in the United States  
Mail in a deposit box so provided at the above-named institution  
in which I am presently confined. The envelope was addressed as  
follows:

Ninth Circuit Court of Appeals  
Post Office Box 193939  
San Francisco, Ca. 94119-3939

Office of the Attorney General  
455 Golden Gate Ave., Suite 11000  
San Francisco, Ca. 94102-7004

I declare under penalty of perjury under the laws of the  
State of California that the foregoing is true and correct.

Executed on 10-11- 2007.

Joseph Mitchell  
  
Declarant Pro Se Petitioner  
Prisoner ID # D-09632 / E-301-L